



AF/252
JFW

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission 30

Application Number 09/838,652

Filing Date 04/19/2001

First Named Inventor David Kyle

Art Unit 2152

Examiner Name Trong Nguyen

Attorney Docket Number TT4390

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Return Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

Remarks
Amended Second Appeal Brief

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Winstead Sechrest & Minick P.C.		
Signature			
Printed name	Robert A. Voigt, Jr.		
Date	05/03/2006	Reg. No.	47,159

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Toni Stanley	Date	05/03/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



TT4390

PATENT

- 1 -

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Kyle et al.
Serial No.: 09/838,652
Filed: April 19, 2001
Group Art Unit: 2152
Before the Examiner: Nguyen, Trong
Title: DETERMINING LOGON STATUS IN A BROADBAND
NETWORK SYSTEM AND AUTOMATICALLY RESTORING
LOGON CONNECTIVITY

AMENDED SECOND APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I. REAL PARTY IN INTEREST

The real party in interest is Advanced Micro Devices, Inc., which is the assignee of the entire right, title and interest in the above-identified patent application.

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on 5-3, 2006.

Signature

Toni Stanley

(Printed name of person certifying)

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellants, Appellants' legal representative or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-26 and 40-52 are pending in the Application. Claims 1-26 and 40-52 stand rejected. Claims 1-26 and 40-52 are appealed.

IV. STATUS OF AMENDMENTS

Appellants have not submitted any amendments following receipt of the final rejection with a mailing date of March 24, 2005.

V. SUMMARY OF CLAIMED SUBJECT MATTER

In one embodiment of the present invention, a method for automatically restoring logon connectivity in a network system may comprise the step of establishing a first connection between a client and an Internet gateway. Specification, page 13, lines 1-14; Specification, page 18, claim 1, lines 1-3; Figure 4, step 401. The method may further comprise checking status of the first connection by issuing a first request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status. Specification, page 13, lines 15-21; Specification, page 18, claim 1, lines 4-6; Figure 4, step 402. The method may further comprise determining whether the web server is accessed from the first request. Specification, page 13, line 22 – page 14, line 2; Specification, page 18, claim 1, line 7; Figure 4, step 403. The method may further comprise automatically attempting to establish a second connection to the Internet gateway if the web server was not accessed from the first request. Specification, page 14, line 25 – page 15,

line 17, Specification, page 18, claim 1, lines 8-9; Figure 4, step 405.

In another embodiment, a system comprises a processor. Specification, page 10, line 16 – page 11, line 22; Figure 3, element 310. The system may further comprise a memory unit storing a computer program operable for automatically restoring logon connectivity in a network system. Specification, page 10, line 16 – page 11, line 22; Figure 3, elements 314, 350. The system may further comprise an input mechanism. Specification, page 10, line 16 – page 11, line 22; Figure 3, elements 326, 328. The system may further comprise an output mechanism. Specification, page 10, line 16 – page 11, line 22; Figure 3, elements 330, 338. The system may further comprise a bus system coupling the processor to the memory unit, input mechanism, and output mechanism. Specification, page 10, line 16 – page 11, line 22; Figure 3, element 312. The computer program may comprise the programming step of establishing a first connection between one or more clients and an Internet gateway. Specification, page 10, line 16 – page 11, line 22; Specification, page 13, lines 1-14; Figure 3, element 350; Figure 4, step 401. The computer program may further comprise the programming step of checking status of the first connection by issuing a first request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status. Specification, page 10, line 16 – page 11, line 22; Specification, page 13, lines 15-21; Figure 3, element 350; Figure 4, step 402. The computer program may further comprise the programming step of determining whether the web server is accessed from the first request. Specification, page 10, line 16 – page 11, line 22; Specification, page 13, line 22 – page 14, line 2; Figure 3, element 350; Figure 4, step 403. The computer program may further comprise the programming step of automatically attempting to establish a second connection between one or more clients and the Internet gateway if the web server was not accessed from the first request. Specification, page 10, line 16 – page 11, line 22; Specification, page 14, line 25 – page 15, line 17, Figure 3, element 350;

Figure 4, step 405.

In another embodiment, a computer program product having a computer readable medium having computer program logic recorded thereon for automatically restoring logon connectivity may comprise programming operable for establishing a first connection between a client and an Internet gateway. Specification, page 10, line 16 – page 11, line 22; Specification, page 13, lines 1-14; Figure 3, element 350; Figure 4, step 401. The computer program product may further comprise programming operable for checking status of the first connection by issuing a first request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status. Specification, page 10, line 16 – page 11, line 22; Specification, page 13, lines 15-21; Figure 3, element 350; Figure 4, step 402. The computer program may further comprise programming operable for determining whether the web server is accessed from the first request. Specification, page 10, line 16 – page 11, line 22; Specification, page 13, line 22 – page 14, line 2; Figure 3, element 350; Figure 4, step 403. The computer program may further comprise programming operable for automatically attempting to establish a second connection to the Internet gateway if the web server was not accessed from the first request. Specification, page 10, line 16 – page 11, line 22; Specification, page 14, line 25 – page 15, line 17, Figure 3, element 350; Figure 4, step 405.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-10, 14-23 and 40-49 stand rejected under 35 U.S.C. §102(b) as being anticipated by Khanna (U.S. Patent No. 5,978,849). Claims 11-13, 24-26 and 50-52 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Khanna in view of Official Notice.

VII. ARGUMENTA. Claims 1-10, 14-23 and 40-49 are not properly rejected under 35 U.S.C. §102(b).

The Examiner has rejected claims 1-10, 14-23 and 40-49 under 35 U.S.C. §102(b) as being anticipated by Khanna. Office Action (12/15/2005), page 2. Appellants respectfully traverse these rejections for at least the reasons stated below.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. §2131.

1. Claims 1, 14 and 40 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "establishing a first connection between a client and an Internet gateway" as recited in claim 1 and similarly in claims 14 and 40. The Examiner cites column 7, lines 42-57 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 2. Appellants respectfully traverse and assert that Khanna instead discloses that a server receives a new SYN segment from a client requesting a connection with the server. Column 7, lines 44-46. Hence, Khanna discloses that a server receives a request from a client to connect it with the server. However, the claim limitation recites an "Internet gateway." The Examiner must provide a basis in fact and/or technical reasoning to support the assertion that a server, as disclosed in Khanna, is an Internet gateway. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that a server, as disclosed in Khanna, is an Internet gateway, and that it be so recognized for persons of ordinary skill. *See In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). Since the Examiner has not provided such evidence,

the Examiner has not presented a *prima facie* case of anticipation in rejecting claims 1, 14 and 40. M.P.E.P. § 2131.

Appellants further assert that Khanna does not disclose "checking status of said first connection by issuing a first request to said Internet gateway to access a web server utilizing a protocol blocked under a logged off status" as recited in claim 1 and similarly in claims 14 and 40. The Examiner cites column 7, lines 46-54 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 3. Appellants respectfully traverse and assert that Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54. Hence, Khanna discloses determining whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. This is not the same as checking the status of a connection by issuing a request to an Internet gateway. Neither is there any language in the cited passage that discloses checking the status of the connection between a client and an Internet gateway by issuing a request to the Internet gateway to access a web server. Neither is there any language in the cited passage that discloses checking the status of the connection between a client and an Internet gateway by issuing a request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status. Thus, Khanna does not disclose all of the limitations of claims 1, 14 and 40, and thus Khanna does not anticipate claims 1, 14 and 40. M.P.E.P. §2131.

Appellants further assert that Khanna does not disclose "determining whether said web server is accessed from said first request" as recited in claim 1 and similarly

in claims 14 and 40. The Examiner cites column 7, lines 46-62 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 3. Appellants respectfully traverse. As stated above, Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54. Hence, Khanna discloses determining whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. There is no language in the cited passage that discloses determining whether a web server is accessed from the request (referring to the request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status). Thus, Khanna does not disclose all of the limitations of claims 1, 14 and 40, and thus Khanna does not anticipate claims 1, 14 and 40. M.P.E.P. §2131.

Appellants further assert that Khanna does not disclose "automatically attempting to establish a second connection to said Internet gateway if said web server was not accessed from said first request" as recited in claim 1 and similarly in claims 14 and 40. The Examiner cites column 7, lines 46-57 and Figure 5 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 3. Appellants respectfully traverse. As stated above, Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54.

Hence, Khanna discloses that a new connection is created by creating new control blocks if the connection with the client sending the SYN segment and for the same server port is not within the TW_TCB list. There is no language in the cited passage that discloses automatically attempting to establish a second connection to the Internet gateway. Neither is there any language in the cited passage that discloses automatically attempting to establish a second connection to the Internet gateway if a web server was not accessed from the request (referring to the request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status). Instead, Khanna simply discloses creating a new connection by creating new control blocks if the connection with the client sending the SYN segment and for the same server port is not within the TW_TCB list. Thus, Khanna does not disclose all of the limitations of claims 1, 14 and 40, and thus Khanna does not anticipate claims 1, 14 and 40. M.P.E.P. §2131.

2. Claims 2-10, 15-23 and 41-49 are not anticipated by Khanna for at least the reasons that claims 1, 14 and 40 are not anticipated by Khanna.

Claims 2-10 depend from claim 1 and hence are not anticipated by Khanna for at least the reasons that claim 1 is not anticipated by Khanna as discussed above in Section (A)(1). Claims 15-23 depend from claim 14 and hence are not anticipated by Khanna for at least the reasons that claim 14 is not anticipated by Khanna as discussed above in Section (A)(1). Claims 41-49 depend from claim 40 and hence are not anticipated by Khanna for at least the reasons that claim 40 is not anticipated by Khanna as discussed above in Section (A)(1).

3. Claims 2, 15 and 41 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "wherein if said web server was accessed from said first request, then the method further comprises the steps of: waiting for a first period of time" as recited in claim 2 and similarly in

claims 15 and 41. The Examiner cites column 6, lines 56-67 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 3. Appellants respectfully traverse and assert that Khanna instead discloses that the server end of a closed connection remains in TIME-WAIT state for a time equal to two times the maximum segment lifetime (2*MSL). Column 6, lines 48-60. Khanna further discloses that the MSL is defined to be thirty seconds. Column 6, lines 60-61. Hence, Khanna discloses implementing a time-wait state for a time equal to one minute. However, Khanna does not disclose waiting for a period of time if the web server was accessed from the first request (referring to the request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status). Thus, Khanna does not disclose all of the limitations of claims 2, 15 and 41, and thus Khanna does not anticipate claims 2, 15 and 41. M.P.E.P. §2131.

Appellants further assert that Khanna does not disclose "wherein if said web server was accessed from said first request, then the method further comprises the steps of: checking status of said first connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status" as recited in claim 2 and similarly in claims 15 and 41. The Examiner cites column 7, line 46 – column 8, line 20 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 3. Appellants respectfully traverse. As stated above, Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54. Hence, Khanna discloses determining whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. There is no

language in the cited passage that discloses checking the status of the first connection by issuing a second request to the Internet gateway. Neither is there any language in the cited passage that discloses checking the status of the first connection by issuing a second request to the Internet gateway if a web server was accessed from the first request (referring to the request to the Internet gateway to access a web server utilizing a protocol blocked under a logged off status). Neither is there any language in the cited passage that discloses checking the status of the first connection by issuing a second request to the Internet gateway to access the web server utilizing the protocol blocked under the logged off status if the web server was accessed from the first request. Thus, Khanna does not disclose all of the limitations of claims 2, 15 and 41, and thus Khanna does not anticipate claims 2, 15 and 41. M.P.E.P. §2131.

4. Claims 3, 16 and 42 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "wherein upon said attempting to establish said connection to said Internet gateway the method further comprises the step of: waiting for a second period of time, wherein said second period of time is less than said first period of time; and checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status" as recited in claim 3 and similarly in claims 16 and 42. The Examiner cites column 6, line 56 – column 7, line 30 of Khanna. Office Action (12/15/2005), page 4. Appellants respectfully traverse and assert that Khanna instead discloses that the server end of a closed connection remains in TIME-WAIT state for a time equal to two times the maximum segment lifetime (2*MSL). Column 6, lines 48-60. Khanna further discloses that the MSL is defined to be thirty seconds. Column 6, lines 60-61. Hence, Khanna discloses implementing a time-wait state for a time equal to one minute. There is no language in the cited passage that discloses waiting for a second period of time, where the second period of time is less than the first period of time.

Neither is there any language in the cited passage that discloses waiting for a second period of time, where the second period of time is less than the first period of time upon attempting to establish a connection to the Internet gateway. Neither is there any language in the cited passage that discloses checking the status of an attempted second connection by issuing a third request to the Internet gateway to access a web server. Neither is there any language in the cited passage that discloses checking the status of an attempted second connection by issuing a third request to the Internet gateway to access a web server utilizing the protocol blocked under the logged off status. Thus, Khanna does not disclose all of the limitations of claims 3, 16 and 42, and thus Khanna does not anticipate claims 3, 16 and 42. M.P.E.P. §2131.

5. Claims 4, 17 and 43 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "wherein said first connection is established by a first logon procedure" as recited in claim 4 and similarly in claims 17 and 43. The Examiner cites column 7, lines 42-46 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 4. Appellants respectfully traverse and assert that Khanna instead discloses that a server receives a new SYN segment from a client requesting a connection with the server. Column 7, lines 44-46. There is no language in the cited passage that discloses that the first connection is established by a logon procedure. Thus, Khanna does not disclose all of the limitations of claims 4, 17 and 43, and thus Khanna does not anticipate claims 4, 17 and 43. M.P.E.P. §2131.

6. Claims 5, 18 and 44 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "terminating said first logon procedure; and executing a second logon procedure" as recited in claim 5 and similarly in claims 18 and 44. The Examiner cites column 7, lines 4-9 and 46-62 of Khanna as disclosing the above-cited claim limitation. Office Action

(12/15/2005), page 4. Appellants respectfully traverse and assert that Khanna instead discloses that the TCB list is searched every time a TCP segment is received to find out which connection the TCP segment belongs to. Column 7, lines 4-6. Khanna further discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54. There is no language in the cited passages that discloses terminating a logon procedure. Neither is there any language in the cited passages that discloses executing a second logon procedure. Thus, Khanna does not disclose all of the limitations of claims 5, 18 and 44, and thus Khanna does not anticipate claims 5, 18 and 44. M.P.E.P. §2131.

7. Claims 7, 20 and 46 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "checking status of said attempted second connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status" as recited in claim 7 and similarly in claims 20 and 46. The Examiner cites column 7, line 46 – column 8, line 20 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 4. Appellants respectfully traverse. As stated above, Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is

created by creating new control blocks. Column 7, lines 52-54. Hence, Khanna discloses determining whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. There is no language in the cited passage that discloses checking the status of an attempted second connection by issuing a second request to an Internet gateway. Neither is there any language in the cited passage that discloses checking the status of an attempted second connection by issuing a second request to an Internet gateway to access a web server utilizing a protocol blocked under a logged off status. Thus, Khanna does not disclose all of the limitations of claims 7, 20 and 46, and thus Khanna does not anticipate claims 7, 20 and 46. M.P.E.P. §2131.

8. Claims 8, 21 and 47 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose that "determining whether said web server is accessed from said second request" as recited in claim 8 and similarly in claims 21 and 47. The Examiner cites column 7, lines 55-62 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 4. Appellants respectfully traverse and assert that Khanna instead discloses that if a connection is located in the TW_TCB, the INPCB associated with the connection is removed from the TW_TCB list and placed in the TCB list. Column 7, lines 55-57. There is no language in the cited passage that discloses determining whether a web server is accessed from the second request. Neither is there any language in the cited passage that discloses determining whether a web server is accessed from the second request where the second request is issued to the Internet gateway to check the status of an attempted connection to the Internet gateway. Thus, Khanna does not disclose all of the limitations of claims 8, 21 and 47, and thus Khanna does not anticipate claims 8, 21 and 47. M.P.E.P. §2131.

9. Claims 9, 22 and 48 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "wherein if said web server is accessed from said second request then the method further comprises the steps of: waiting for a second period of time, wherein said first period of time is less than said second period of time; and checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status" as recited in claim 9 and similarly in claims 22 and 48. The Examiner cites column 7, line 46 – column 8, line 20 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 5. Appellants respectfully traverse. As stated above, Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54. Hence, Khanna discloses determining whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. There is no language in the cited passage that discloses waiting for a second period of time, where the first period of time is less than the second period of time. Neither is there any language in the cited passage that discloses waiting for a second period of time, where the first period of time is less than the second period of time, if the web server is accessed from the second request. Neither is there any language in the cited passage that discloses checking the status of an attempted second connection by issuing a third request to an Internet gateway. Neither is there any language in the cited passage that discloses checking the status of an attempted second connection by issuing a third request to an Internet gateway to access the web server utilizing a protocol blocked under the logged off status. Neither is there any language in the cited passage that discloses checking the status of an attempted

second connection by issuing a third request to an Internet gateway to access the web server utilizing a protocol blocked under the logged off status, if the web server is accessed from the second request. Thus, Khanna does not disclose all of the limitations of claims 9, 22 and 48, and thus Khanna does not anticipate claims 9, 22 and 48. M.P.E.P. §2131.

10. Claims 10, 23 and 49 are not anticipated by Khanna.

Appellants respectfully assert that Khanna does not disclose "wherein if said web server was not accessed from said second request then the method further comprises the step of: automatically attempting to establish a third connection to said Internet gateway" as recited in claim 10 and similarly in claims 23 and 49. The Examiner cites column 7, line 46 – column 8, line 20 of Khanna as disclosing the above-cited claim limitation. Office Action (12/15/2005), page 5. Appellants respectfully traverse. As stated above, Khanna instead discloses that the TW_TCB list is searched for a connection with the client sending the SYN segment and for the same server port. Column 7, lines 47-49. Khanna further discloses that a determination is made whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. Column 7, lines 50-52. Khanna further discloses that if a connection is not located in the TW_TCB, a new connection is created by creating new control blocks. Column 7, lines 52-54. Hence, Khanna discloses determining whether a connection with the client sending the SYN segment and for the same server port is within the TW_TCB list. There is no language in the cited passage that discloses automatically attempting to establish a third connection to an Internet gateway. Neither is there any language in the cited passage that discloses automatically attempting to establish a third connection to an Internet gateway if the web server was not accessed from the second request. Thus, Khanna does not disclose all of the limitations of claims 10, 23 and 49, and thus Khanna does not anticipate claims 10, 23 and 49. M.P.E.P. §2131.

- B. Claims 11-13, 24-26 and 50-52 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Khanna in view of Official Notice.

The Examiner has rejected claims 11-2, 24-26 and 50-52 under 35 U.S.C. §103(a) as being unpatentable over Khanna in view of Office Notice. Office Action (12/15/2005), page 6. Appellants respectfully traverse these rejections for at least the reasons stated below.

Most if not all inventions arise from a combination of old elements. *See In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). Obviousness is determined from the vantage point of a hypothetical person having ordinary skill in the art to which the patent pertains. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). Therefore, an Examiner may often find every element of a claimed invention may often be found in the prior art. *Id.* However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. *See Id.* In order to establish a *prima facie* case of obviousness, the Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998). That is, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Whether the Examiner relies on an express or an implicit showing, the Examiner must provide particular findings related thereto. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

The Examiner admits that Khanna does not teach a protocol that is a HyperText Protocol, as recited in claim 11 and similarly in claims 24 and 50. Office Action (12/15/2005), page 6. The Examiner further admits that Khanna does not

teach a protocol that is a file transfer protocol, as recited in claim 12 and similarly in claims 25 and 51. Office Action (12/15/2005), page 6. The Examiner further admits that Khanna does not teach a protocol that is a telnet protocol, as recited in claim 13 and similarly in claims 26 and 52. Office Action (12/15/2005), page 6. The Examiner modifies Khanna to include the above-cited claim limitations "because Khanna essentially teaches content sharing/transmission via online communications protocols like TCP to accomplish a similar task." Office Action (12/15/2005), page 6. The Examiner's motivation is insufficient to establish a *prima facie* case of obviousness in rejecting claims 11-13, 24-26 and 50-52.

The Examiner has not provided a source for his motivation for modifying Khanna to include the above-cited claim limitations. The Examiner simply states "because Khanna essentially teaches content sharing/transmission via online communications protocols like TCP to accomplish a similar task" as motivation for modifying Khanna to include the above-cited claim limitations. The motivation to modify Khanna must come from one of three possible sources: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. *In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-48 (Fed. Cir. 1998). The Examiner has not provided any evidence that his motivation comes from any of these sources. Instead, the Examiner is relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 11-13, 24-26 and 50-52. *Id.*

Appellants respectfully traverse the implied assertion that it is well known in the art to issue a request to an Internet gateway to access a web server utilizing a protocol, whether it is a HyperText Protocol, a file transfer protocol or a telnet protocol, blocked under a logged off status. Appellants respectfully note that the Examiner has not provided a reference that teaches issuing a request to an Internet

gateway to access a web server utilizing a protocol, whether it is a HyperText Protocol, a file transfer protocol or a telnet protocol, blocked under a logged off status pursuant to M.P.E.P. §2144.03.

VIII. CONCLUSION

For the reasons noted above, the rejections of claims 1-26 and 40-52 are in error. Appellants respectfully request reversal of the rejections and allowance of claims 1-26 and 40-52.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Appellants

By: _____

Robert A. Voigt, Jr.

Reg. No. 47,159

Kelly K. Kordzik

Reg. No. 36,571

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

CLAIMS APPENDIX

1. A method for automatically restoring logon connectivity in a network system comprising the steps of:

establishing a first connection between a client and an Internet gateway;

checking status of said first connection by issuing a first request to said Internet gateway to access a web server utilizing a protocol blocked under a logged off status;

determining whether said web server is accessed from said first request; and

automatically attempting to establish a second connection to said Internet gateway if said web server was not accessed from said first request.

2. The method as recited in claim 1, wherein if said web server was accessed from said first request then the method further comprises the steps of:

waiting for a first period of time; and

checking status of said first connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

3. The method as recited in claim 2, wherein upon said attempting to establish said second connection to said Internet gateway the method further comprises the step of:

waiting for a second period of time, wherein said second period of time is less than said first period of time; and

checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

4. The method as recited in claim 1, wherein said first connection is established by a first logon procedure.

5. The method as recited in claim 4, wherein said step of attempting to establish said second connection comprises the steps of:
 - terminating said first logon procedure; and
 - executing a second logon procedure.
6. The method as recited in claim 5 further comprising the step of:
 - waiting for a first period of time.
7. The method as recited in claim 6 further comprising the step of:
 - checking status of said attempted second connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.
8. The method as recited in claim 7 further comprising the step of:
 - determining whether said web server is accessed from said second request.
9. The method as recited in claim 8, wherein if said web server is accessed from said second request then the method further comprises the steps of:
 - waiting for a second period of time, wherein said first period of time is less than said second period of time; and
 - checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.
10. The method as recited in claim 8, wherein if said web server was not accessed from said second request then the method further comprises the step of:
 - automatically attempting to establish a third connection to said Internet gateway.

11. The method as recited in claim 1, wherein said protocol is a HyperText Transport Protocol.

12. The method as recited in claim 1, wherein said protocol is a file transfer protocol.

13. The method as recited in claim 1, wherein said protocol is a telnet protocol.

14. A system, comprising:

a processor;

a memory unit storing a computer program operable for automatically restoring logon connectivity in a network system;

an input mechanism;

an output mechanism;

a bus system coupling the processor to the memory unit, input mechanism, and output mechanism, wherein the computer program comprises the programming steps of:

establishing a first connection between one or more clients and an Internet gateway;

checking status of said first connection by issuing a first request to said Internet gateway to access a web server utilizing a protocol blocked under a logged off status;

determining whether said web server is accessed from said first request; and

automatically attempting to establish a second connection between said one or more clients and said Internet gateway if said web server was not accessed from said first request.

15. The system as recited in claim 14, wherein if said web server was accessed from said first request then the computer program further comprises the programming steps of:

waiting for a first period of time; and

checking status of said first connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

16. The system as recited in claim 15, wherein upon said attempting to establish said second connection between said one or more clients and said Internet gateway the computer program further comprises the programming steps of:

waiting for a second period of time, wherein said second period of time is less than said first period of time; and

checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

17. The system as recited in claim 14, wherein said first connection is established by a first logon procedure.

18. The system as recited in claim 17, wherein said step of attempting to establish said second connection comprises the programming steps of:

terminating said first logon procedure; and

executing a second logon procedure.

19. The system as recited in claim 18, wherein the computer program further comprises the programming step of:

waiting for a first period of time.

20. The system as recited in claim 19, wherein the computer program further comprises the programming step of:

checking status of said attempted second connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

21. The system as recited in claim 20, wherein the computer program further comprises the programming step of:

determining whether said web server is accessed from said second request.

22. The system as recited in claim 21, wherein if said web server is accessed from said second request then the computer program further comprises the programming steps of:

waiting for a second period of time, wherein said first period of time is less than said second period of time; and

checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

23. The system as recited in claim 21, wherein if said web server was not accessed from said second request then the computer program further comprises the programming step of:

automatically attempting to establish a third connection to said Internet gateway.

24. The system as recited in claim 14, wherein said protocol is a HyperText Transport Protocol.

25. The system as recited in claim 14, wherein said protocol is a file transfer

protocol.

26. The system as recited in claim 14, wherein said protocol is a telnet protocol.

40. A computer program product having a computer readable medium having computer program logic recorded thereon for automatically restoring logon connectivity, comprising:

- programming operable for establishing a first connection between a client and an Internet gateway;

- programming operable for checking status of said first connection by issuing a first request to said Internet gateway to access a web server utilizing a protocol blocked under a logged off status;

- programming operable for determining whether said web server is accessed from said first request; and

- programming operable for automatically attempting to establish a second connection to said Internet gateway if said web server was not accessed from said first request.

41. The computer program product as recited in claim 40, wherein if said web server was accessed from said first request then the computer program product further comprises:

- programming operable for waiting for a first period of time; and

- programming operable for checking status of said first connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

42. The computer program product as recited in claim 41, wherein upon said attempting to establish said second connection to said Internet gateway the computer program product further comprises:

programming operable for waiting for a second period of time, wherein said second period of time is less than said first period of time; and

programming operable for checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

43. The computer program product as recited in claim 40, wherein said first connection is established by a first logon procedure.

44. The computer program product as recited in claim 43, wherein said programming step of attempting to establish said second connection comprises the programming steps of:

terminating said first logon procedure; and
executing a second logon procedure.

45. The computer program product as recited in claim 44 further comprising:
programming operable for waiting for a first period of time.

46. The computer program product as recited in claim 45 further comprising:
programming operable for checking status of said attempted second connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

47. The computer program product as recited in claim 46 further comprising:
programming operable for determining whether said web server is accessed from said second request.

48. The computer program product as recited in claim 47, wherein if said web server is accessed from said second request then the computer program product

further comprises:

programming operable for waiting for a second period of time, wherein said first period of time is less than said second period of time; and

programming operable for checking status of said attempted second connection by issuing a third request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status.

49. The computer program product as recited in claim 47, wherein if said web server was not accessed from said second request then the computer program product further comprises:

programming operable for automatically attempting to establish a third connection to said Internet gateway.

50. The computer program product as recited in claim 40, wherein said protocol is a HyperText Transport Protocol.

51. The computer program product as recited in claim 40, wherein said protocol is a file transfer protocol.

52. The computer program product as recited in claim 40, wherein said protocol is a telnet protocol.

EVIDENCE APPENDIX

No evidence was submitted pursuant to §§1.130, 1.131, or 1.132 of 37 C.F.R. or of any other evidence entered by the Examiner and relied upon by Appellants in the Appeal.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings to the current proceeding.